

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPCR No. 46 of 2017**

1. Vidhya Prasad Kaushik S/o Late Chaituram Kaushik, Aged About 70 Years R/o Village Anda, Police Chowki Saket, P. S. Pathariya, District Mungeli Chhattisgarh.
2. Kusum Kaushik D/o Vidhya Prasad Kaushik, Aged About 42 Years R/o Mahima Nagar, Sita Vihar Road, Ward No. 7, P. S. Sirgitti, District Bilaspur Chhattisgarh.

--- Petitioners**Versus**

1. State of Chhattisgarh through the Secretary Department of Home, Mantralay Mahanadi Bhawan, New Raipur, District Raipur Chhattisgarh,
2. Superintendent of Police, Bilaspur, District Bilaspur Chhattisgarh
3. Station House Officer, P. S. Torawa, District Bilaspur Chhattisgarh, District : Bilaspur, Chhattisgarh
4. Station House Officer, P. S. Sirgitti, District Bilaspur Chhattisgarh,.
5. Madhav Mishra S/o Narayan Prasad Mishra, Aged About 46 Years R/o Control Block, Loco Colony, House No. 210/3, P. S. Torwa, District Bilaspur Chhattisgarh.
6. Vinay Mishra S/o Madhav Mishra, Aged About 32 Years R/o Control Block, Loco Colony, House No. 210/3, P. S. Torwa, District Bilaspur Chhattisgarh.

--- Respondents

For the applicant	:	Mr. F.S. Khare, Advocate.
For the State	:	Mr. Chandresh Shrivastava, Dy.A.G.

Hon'ble Shri Justice Goutam Bhaduri**Order on Board****05.03.2019**

1. The present petition is filed against non-registration of the FIR despite the report made by petitioner No.1 Vidhya Prasad and the subsequent report by petitioner No.2 Kusum Kaushik

that cognizable offence has been committed by respondents 5 and 6.

2. It is alleged that respondent No. 5 had obtained an amount of Rs.5,55,000/- from petitioners to provide job in Indian Railways but despite payment made no employment was provided, as such, when they asked to refund the amount, son of Respondent No.5 namely Vinay Mashra (respondent No.6 herein) abused the petitioners and extended threat to them. It is contended that despite the lodging the report by the petitioners, no FIR was registered and the concerned Police have privately stated that no offence is made out.
3. Learned State counsel submits that in the first enquiry the Police has conducted enquiry, however, in respect of the other report, the inquiry found that no offence is made out.
4. Prima facie reading of the complaint Annexure P-2 dated 02.11.2015 and Annexure P-4 would reveal that cognizable offence is made out in such case. As per the principles laid down by the Supreme Court in ***Lalita Kumari v. Government of Uttar Pradesh (2014) 2 SCC 1***, when the cognizable offence has been reported, the police shall be obliged to register the offence and investigate into the matter. Therefore in the instant case when the cognizable offence is reported, it cannot be diluted on the ground that primary enquiry was conducted without registration of FIR. Consequently the respondent Police Authorities are bound to register the FIR as necessarily once the FIR is registered, it has to be routed through the Magistrate and privately the cognizable offence cannot be closed at the behest of the police. Therefore, the police is directed to register the FIR

and make enquiry by following the procedure laid down in Cr.P.C.

5. It is made clear that this Court has not expressed any opinion on the merits of the case.
6. With the above observation/direction, this petition is disposed of.

**Sd/-
GOUTAM BHADURI
JUDGE**

Rao